



- e. Position Evaluation Commission recommendations to add an addendum to the Reference Librarian/Librarian I job description; add a full-time contract Transit Reservationist/Office Associate II through 2012; and reclassify a vacant part-time benefitted Financial Analyst in the Finance/Auditors Department to a full-time Grants Accountant.
  - (1) Contract with Jasmine Markusen for a Transit Reservationist/Office Associate II.
- f. Request from the City of Moorhead for Fargo to continue operation of MAT Paratransit service in Moorhead and Dilworth during the State of Minnesota shutdown.
- g. Law Enforcement Mutual Aid Agreement between the Fargo, Moorhead and West Fargo Police Departments and the Cass and Clay County Sheriffs' Departments.
- h. Mutual Aid Agreement with the City of Oakes.
- i. Overtime pay for exempt employees who are assisting with the recovery efforts in Minot.
- j. Unicorn Park Neighborhood Plan.
- k. Applications for tax exemptions for improvements made to buildings:
  - (1) Robert and Leah Strand, 1005 26th Street North (4 year).
  - (2) Kerry Wynne, 1009 8th Avenue South (5 year).
  - (3) Jeremy and Tanya Disrud, 535 21st Street North (5 year).
  - (4) Anders and Marie Hendrickson, 908 1st Street North (5 year).
- l. Site Authorization for the Fargo Air Museum at 1609 19th Avenue North.
- m. Applications for Games of Chance:
  - (1) Riverview Place for a raffle on 10/9/11.
  - (2) Fargo Lions Club for a sports pool from 9/12/11 through 12/26/11.
  - (3) Knights of Columbus 4th Degree No. 788 for raffles from 1/1/12 through 1/31/12.
  - (4) North Dakota Conference of Social Welfare for a raffle on 9/30/11.
  - (5) Fargo South High School for raffles from 8/23/11 to 2/14/12 at the Southwest Youth Arena, Fargo South High School, Fargodome and Scheels Arena.
  - (6) Villa Nazareth d/b/a Friendship, Inc. for a raffle on 11/4/11.
- n. Contract with Hazer's Auto & Truck Parts, Inc. for disposal and processing services for appliances and miscellaneous scrap metal (omitted).
- o. Purchase of one bus from North Central Bus Sales for \$60,732.00.

- p. Fargo Cass Public Health contracts:
  - (1) Tobacco Prevention and Control Program.
  - (2) North Dakota Tobacco Prevention and Control Executive Committee for the tobacco cessation program (Contract #G11-08).
  - (3) North Dakota Department of Health for the State Viral Hepatitis Program (Contract #PF11.004).
  - (4) North Dakota Department of Health Agreement for the public water supply supervision program (CFDA #66.605).
  - (5) Grant agreement amendment with the North Dakota Department of Health to support the Moving More, Eating Smarter community program (CFDA #93.991).
  - (6) Contract amendment with the North Dakota Department of Health for the WIC program; Health Department budget adjustments in the amount of \$3,160.00 (CFDA #10.557).
  
- q. Agreement for Entry and Construction with David and Jolette Olig for property at 4649 Timberline Drive South (Project No. 5949).
  
- r. Engineering Services Agreement with KLJ in the amount of \$1,500.00 for Project No. 6042.
  
- s. Contract Amendment No. 2, in the amount of \$251,560.00 for Phase 2 of Project No. 5949.
  
- t. Contract Amendment No. 1, in the amount of \$196,637.00 for Project No. 5962.
  
- u. Change Orders for the following Projects:
  - (1) No. 5 for an increase of \$23,485.52 for Project No. 5944.
  - (2) No. 4 for a decrease of \$28,845.90 for Project No. 5949.
  - (3) Nos. 1-9 for a total increase of \$51,828.53 for Improvement District No. 5601.
  
- v. Bid awards for Project Nos. 5944-03 to S & S Landscaping Company, Inc. in the amount of \$35,427.00; 5949-3 to Master Construction Company, Inc. in the amount of \$1,766,080.05; 5982 to John T. Jones Construction Company in the amount of \$277,777.00; 6026 to Strata Corporation in the amount of \$248,364.25; 6028-01 to Swanston Equipment Company in the amount of \$218,895.57; and 6042 to Asplin Excavating, Inc. in the amount of \$584,625.40.
  
- w. Contract award for consulting services for Project No. 6050 to IMS Infrastructure Management Services.
  
- x. Bid advertisement for Project No. 6025.
  
- y. Contracts and bonds for Project Nos. 5747-28, 5991, 6032.

z. Bills in the amount of \$6,503,478.84

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

P.C. Concrete Alley Paving and Incidentals Improvement District No. 6022: Protests Received and Declared Insufficient:

The Statutory Resolution of Necessity for the construction of P.C. Concrete Alley Paving and Incidentals Improvement District No. 6022 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on June 20 and 27, 2011 and protests representing 4.27 percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

Commissioner Mahoney moved the protests be received and filed and declared insufficient.

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Bids Received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6022:

The bids for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6022 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., July 20, 2011 and the bids were found to be as follows:

Adelman Concrete and Excavating Bid:	Fargo, ND \$58,465.00
Key Contracting Bid:	Fargo, ND \$64,920.00
Opp Construction Company Bid:	Grand Forks, ND \$71,139.75
Paras Contracting, Inc. Bid:	Fargo, ND \$76,945.50

Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6022 Awarded to Adelman Concrete and Excavating in the Amount of \$58,465.00:

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of P.C. Concrete Alley Paving and Incidentals Improvement District No. 6022; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 20, 2011 for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6022 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6022 shows the bid of Adelman Concrete and Excavating of Fargo, North Dakota, in the sum of \$58,465.00 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Adelman Concrete and Excavating in the sum of \$58,465.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6022 in the City of Fargo, North Dakota, be and the same is hereby awarded to Adelman Concrete and Excavating for the sum of \$58,465.00, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

Second by Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Mahoney, Williams, Wimmer, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the Resolution was adopted.

P.C. Concrete Alley Paving and Incidentals Improvement District No. 6033: Protests Received and Declared Insufficient:

The Statutory Resolution of Necessity for the construction of P.C. Concrete Alley Paving and Incidentals Improvement District No. 6033 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on June 20 and 27, 2011 and protests representing 38.25 percent of the legal protest area have been received and filed in the office of the City Auditor within the legal protest period.

Commissioner Mahoney moved the protests be received and filed and declared insufficient.

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Bids Received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6033:

The bids for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6033 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., July 20, 2011 and the bids were found to be as follows:

Adelman Concrete and Excavating Bid:	Fargo, ND \$111,789.50
Key Contracting Bid:	Fargo, ND \$127,205.00

Opp Construction Company  
Bid:

Grand Forks, ND  
\$137,861.95

Paras Contracting, Inc.  
Bid:

Fargo, ND  
\$143,863.00

Contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6033 Awarded to Adelman Concrete and Excavating in the Amount of \$111,789.50:

Commissioner Mahoney offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of P.C. Concrete Alley Paving and Incidentals Improvement District No. 6033; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received July 20, 2011 for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6033 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6033 shows the bid of Adelman Concrete and Excavating of Fargo, North Dakota, in the sum of \$111,789.50 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Adelman Concrete and Excavating in the sum of \$111,789.50 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for P.C. Concrete Alley Paving and Incidentals Improvement District No. 6033 in the City of Fargo, North Dakota, be and the same is hereby awarded to Adelman Concrete and Excavating for the sum of \$111,789.50, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

Second by Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Mahoney, Williams, Wimmer, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the Resolution was adopted.

P.C. Concrete Alley Paving and Incidentals Improvement District No. 6045 (Block 2, Hogan Addition between 4th and 5th Streets North from 15th to 16th Avenues North):

Commissioner Mahoney moved the following action be taken in connection with P.C. Concrete Alley Paving and Incidentals Improvement District No. 6045:

Adopt Resolution Creating Improvement District No. 6045:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6045 in the City of Fargo, North Dakota, be created

From 15th to 16th Avenue North between 4th Street & 5th Street, Hogan Addition.

COMPRISING:

Lots 1 through 26, Block 2.  
All in Hogan Addition.

All of the foregoing is located in the City of Fargo, Cass County, North Dakota.

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Alley Paving and Incidentals Improvement District No. 6045 in the City of Fargo, North Dakota, be and the same is hereby created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. 6045:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6045 in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$139,920.)

Order Plans and Specifications for Improvement District No. 6045:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6045 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6045:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6045 in the City of Fargo, North Dakota, as required by law; and

WHEREAS, Plans and Specifications and the Engineer's Report prepared by the City Engineer, have been considered.

NOW, THEREFORE, BE IT RESOLVED, That the Plans and Specifications and Engineer's Report for the construction of Improvement District No. 6045 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring P.C. Concrete Alley Paving and Incidentals Necessary:

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

That it be and is hereby declared necessary to construct P.C. Concrete Alley Paving and Incidentals Improvement District No. 6045 in the City of Fargo, North Dakota, according to the Engineer's Report for this district and the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection. A map of the district is attached hereto and incorporated as if fully set forth herein.

That the entire cost of said improvement be specially assessed against the benefited property in said improvement district in amounts proportionate to

and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed P.C. Concrete Alley Paving and Incidentals must be in writing and must be filed with the City Auditor's Office within 30 days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. 6045:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6045 in the City of Fargo, North Dakota.

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

P.C. Concrete Alley Paving and Incidentals Improvement District No. 6046 (North Broadway Addition):

Commissioner Mahoney moved the following action be taken in connection with P.C. Concrete Alley Paving and Incidentals Improvement District No. 6046:

Adopt Resolution Creating Improvement District No. 6046:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6046 in the City of Fargo, North Dakota, be created

From 17th to 18th Avenue North between 3rd Street and 4th Street, North Broadway Addition.

COMPRISING:

Lots 261-280 and 321-340.

All in North Broadway Addition.

All of the foregoing is located in the City of Fargo, Cass County, North Dakota.

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Alley Paving and Incidentals Improvement District No. 6046 in the City of Fargo, North Dakota, be and the same is hereby created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. 6046:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6046 in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$124,000.)

Order Plans and Specifications for Improvement District No. 6046:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6046 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6046:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6046 in the City of Fargo, North Dakota, as required by law; and

WHEREAS, Plans and Specifications and the Engineer's Report prepared by the City Engineer, have been considered.

NOW, THEREFORE, BE IT RESOLVED, That the Plans and Specifications and Engineer's Report for the construction of Improvement District No. 6046 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring P.C. Concrete Alley Paving and Incidentals Necessary:

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

That it be and is hereby declared necessary to construct P.C. Concrete Alley Paving and Incidentals Improvement District No. 6046 in the City of Fargo, North Dakota, according to the Engineer's Report for this district and the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection. A map of the district is attached hereto and incorporated as if fully set forth herein.

That the entire cost of said improvement be specially assessed against the benefited property in said improvement district in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed P.C. Concrete Alley Paving and Incidentals must be in writing and must be filed with the City Auditor's Office within 30 days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. 6046:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6046 in the City of Fargo, North Dakota.

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

P.C. Concrete Alley Paving and Incidentals Improvement District No. 6052 (North Broadway Addition):

Commissioner Mahoney moved the following action be taken in connection with P.C. Concrete Alley Paving and Incidentals Improvement District No. 6052:

Adopt Resolution Creating Improvement District No. 6052:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 6052 in the City of Fargo, North Dakota, be created

From 18th to 19th Avenue North between 3rd Street and 4th Street, North Broadway Addition.

COMPRISING:

Lots 281 through 299 and Lots 341 through 359.  
All in North Broadway Addition.

All of the foregoing is located in the City of Fargo, Cass County, North Dakota.

NOW, THEREFORE, BE IT RESOLVED, That P.C. Concrete Alley Paving and Incidentals Improvement District No. 6052 in the City of Fargo, North Dakota, be and the same is hereby created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. 6052:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 6052 in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$109,164.)

Order Plans and Specifications for Improvement District No. 6052:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 6052 in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 6052:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 6052 in the City of Fargo, North Dakota, as required by law; and

WHEREAS, Plans and Specifications and the Engineer's Report prepared by the City Engineer, have been considered.

NOW, THEREFORE, BE IT RESOLVED, That the Plans and Specifications and Engineer's Report for the construction of Improvement District No. 6052 in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring P.C. Concrete Alley Paving and Incidentals Necessary:

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

That it be and is hereby declared necessary to construct P.C. Concrete Alley Paving and Incidentals Improvement District No. 6052 in the City of Fargo, North Dakota, according to the Engineer's Report for this district and the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection. A map of the district is attached hereto and incorporated as if fully set forth herein.

That the entire cost of said improvement be specially assessed against the benefited property in said improvement district in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed P.C. Concrete Alley Paving and Incidentals must be in writing and must be filed with the City Auditor's Office within thirty days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. 6052:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 6052 in the City of Fargo, North Dakota.

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6001 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Aggregate Industries-NCR, Inc. for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6001 in the City of Fargo, North Dakota.

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6001 Approved:

Commissioner Mahoney moved approval of the following described Contract Bond as to sufficiency:

Western Surety Company, in the amount of \$269,247.11, for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6001 in the City of Fargo, North Dakota.

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Contract for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6020 Approved:

Commissioner Mahoney moved approval of the Contract between the City of Fargo and Master Construction Company Inc. for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6020 in the City of Fargo, North Dakota.

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Contract Bond for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6020 Approved:

Commissioner Mahoney moved approval of the following described Contract Bond as to sufficiency:

The Guarantee Company of North America USA, in the amount of \$1,040,388.95, for Sanitary Sewer, Water Main, Storm Sewer, Paving, Street Lights and Incidentals Improvement District No. 6020 in the City of Fargo, North Dakota.

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Approval Recommended on Application Filed by Kelly Manthie to Lower the 2009 Assessment Valuation on 1429 1st Avenue North:

The Board received a communication from City Assessor Ben Hushka recommending that the application filed by Kelly Manthie for Abatement or Refund of Taxes #4375 on 1429 1st Avenue North for the 2009 tax year reducing the valuation from \$91,100.00 to \$86,200.00 be approved. He said in attempting to appraise this property for building permit work in 2005, the Assessor's Office was unable to gain entrance and subsequently had to estimate a value based on certain assumptions. For the 2006 assessment year, he said, the valuation went from \$85,100 to \$91,100 which is the current valuation on the property. He stated in February of 2008 the applicant acquired the property and requested a review of the valuation. Upon conducting that review, he said, the Assessor's Office corrected the value from \$91,100 to \$86,200 for the 2010 and 2011 assessment years.

Commissioner Mahoney moved, based upon Mr. Hushka's recommendation, that the application #4375 filed by Kelly Manthie for Abatement of 2009 real estate taxes on property located at 1429 1st Avenue North be approved and that the City

Auditor's Office be directed to certify this action on the part of the Board to the County Auditor of Cass County, North Dakota.

Second by Wimmer. On call of the roll Commissioners Mahoney, Wimmer, Williams, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Request from The Hub that the Noise Ordinance Restricting Loud Music in a Commercial Area During the Day Be Lifted for Two Outdoor Concerts Approved: Appropriate Staff Directed to Work with the City Attorney to Update the Noise Ordinance:

The Board received a communication from Director of Administration for The Hub Trasi Walker requesting that the Noise Ordinance restricting loud music in a commercial area during the day be lifted. The request, she said, would be for periodic sound checks during the day for two upcoming outdoor concerts on Wednesday, August 17th and Tuesday, August 23rd. She said there would be approximately three to four sound checks lasting between 20 to 30 minutes each.

Chief of Police Keith Ternes said every summer the City of Fargo receives requests from businesses asking for extensions of the noise ordinance for outdoor events and he cannot recall a time when the City has denied a request. He said as he has reviewed the Noise Ordinance it has come to his attention that the 10 p.m. restriction only applies to the downtown area and for businesses outside of the downtown area the noise ordinance does not apply. For businesses outside of the downtown area the noise restrictions are based on decibels, he said, and how the area of town is zoned depicts how many decibels are allowed. He recommended the ordinance be revised and no exceptions to the ordinance be granted until the ordinance is updated.

Jade Nielson, President of Jade Presents, said he was initially told in order to go beyond the decibel limit at The Hub, they would need to request an extension to the noise ordinance. He said he wants to make sure that everyone is treated fairly with the new ordinance as it is not just The Hub that requests extensions to the noise ordinance.

Commissioner Piepkorn moved the request to allow periodic sound checks during the day on Wednesday, August 17th and Tuesday, August 23rd for approximately 20 to 30 minutes each be approved.

Second by Williams. On call of the roll Commissioners Piepkorn, Williams, Wimmer, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Commissioner Wimmer moved the appropriate staff be directed to work with the City Attorney to update the Noise Ordinance.

Second by Piepkorn. On call of the roll Commissioners Wimmer, Piepkorn, Williams, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Application Filed by Amity Technology, LLC for a Five Year Property Tax Exemption Approved:

A Hearing had been set for this day and hour on an application filed by Amity Technology, LLC for a five year property tax exemption for the project at 625 29th Street North which the applicant will use to manufacture agricultural equipment.

No written protests have been filed for the attention of the Board.

The Board determined that no person is present at this Hearing to protest or offer objection thereto.

Commissioner Wimmer moved that the application filed by Amity Technology, LLC for a five year 100% property tax exemption pursuant to Chapter 40-57.1, NDCC be approved.

Second by Piepkorn. On call of the roll Commissioners Wimmer, Piepkorn, Williams, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Application Filed by Winchester, LLC for Payment in Lieu of Tax Exemption Approved:

A Hearing had been set for this day and hour on an application filed by Winchester, LLC for payment in lieu of property tax exemption for operation of a 28 unit apartment at 314, 320, 324 7th Street North.

No written protests have been filed for the attention of the Board.

The Board determined that no person is present at this Hearing to protest or offer objection thereto.

City Assessor Ben Hushka stated at the time of the application not all of the land had been acquired. He said his recommendation would be to approve the application contingent upon it being located on the site indicated in the application with the project design and the project operator.

Commissioner Piepkorn said it seems a bit ironic that the City is selling City owned land to this developer and turning around and offering a tax exemption. He said unless this project is for low income housing it does not add up.

Planning Director Jim Gilmour said the applicant was upfront that part of the proposal was that they would receive a tax exemption.

Commissioner Wimmer moved that the application filed by Winchester, LLC for a 10 year payment in lieu of tax exemption pursuant to Chapter 40-57.1, NDCC be approved as follows contingent upon the project being located at 314, 320, 324 7th Street North, with the project design and project operator indicated in the application:

Year 1 through 5 - \$0

Year 6 through 10 - \$11,313

Second by Mahoney. On call of the roll Commissioners Wimmer, Mahoney, Williams and Walaker voted aye.

Commissioner Piepkorn voted nay.

The motion was declared carried.

Parcels of Land in Charles A. Roberts Addition Rezoned (901 9th Street South):

At a Hearing held on July 5, 2011 the Fargo Planning Commission considered a change in zoning from SR-3, Single-Dwelling to NC, Neighborhood Commercial with a Conditional Overlay on Lots 12 and 13, Block S, Charles A. Roberts Addition.

The City Auditor's Office published a Notice of Hearing stating this is the time and date set for said Hearing at which time all interested persons could appear and would be heard.

Commissioner Wimmer offered the following Resolution and moved its adoption:

WHEREAS, All legal requirements in connection with the above-described request for rezoning have been complied with; and

WHEREAS, The Fargo Planning Commission approved the rezoning on July 5, 2011; and

WHEREAS, Written protests to the rezoning representing .9% of the legal protest area have been received and filed in the Office of the City Auditor.

NOW, THEREFORE, BE IT RESOLVED, That the findings of staff be accepted and the rezoning be approved with the Conditional Overlay requirements listed in the Ordinance on the basis that the proposal satisfactorily complies with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

Second by Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Wimmer, Williams, Piepkorn, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the Resolution was adopted.

Parcels of Land in Ohmers Addition Rezoned (1201 9th Street North; 1202 5th Street North; 1202 8th Street North; 1204 and 1218 Broadway North; and 605, 609, 613, 617, 705, 709, 713, 717, 721, 725, 803, 809, 813 and 817 12th Avenue North):

At a Hearing held on July 5, 2011 the Fargo Planning Commission recommended approval of a change in zoning from MR-2, Multi-Dwelling to SR-3, Single-Dwelling on portions of Lots 1, 24 and 25, Ohmers Addition and the South 75 feet of the East 1/2 of Lot 8, Block 3, James Hole Addition.

The City Auditor's Office published a Notice of Hearing stating this is the time and date set for said Hearing at which time all interested persons could appear and would be heard.

Martha Berryhill, 1354 12th Street North, said on behalf of the Horace Mann and Roosevelt neighborhoods she would like to express her support of the change. She said it is a good example of government at work protecting its citizens.

Commissioner Wimmer offered the following Resolution and moved its adoption:

WHEREAS, All legal requirements in connection with the above-described request for rezoning have been complied with; and

WHEREAS, There have been no written or verbal protests to the request for rezoning and no one is present to protest thereto.

NOW, THEREFORE, BE IT RESOLVED, That the findings of staff be accepted and the rezoning be approved on the basis that the proposal satisfactorily complies

with the Comprehensive Plan, Standards of Section 20-0906.F (1-4) and all other applicable requirements of the LDC.

Second by Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Wimmer, Williams, Piepkorn, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the Resolution was adopted.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Ohmers Addition and James Hole Addition, Fargo, Cass County, North Dakota :

Commissioner Mahoney moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Certain Parcels of Land Lying in Ohmers Addition and James Hole Addition, Fargo, Cass County, North Dakota be placed on first reading.

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Our Town Grant Award to the City of Fargo from the National Endowment for the Arts Accepted:

The Board received a communication from Planner Nicole Crutchfield stating the City of Fargo applied for and was awarded an allocation from the National Endowment for the Arts inaugural competitive grant program called Our Town. She said the City of Fargo was awarded \$100,000 to be used in defining a neighborhood and artist participatory art process with a pilot project. The pilot project, she said, is to improve the aesthetics at a designated drainage basin located within a CDBG eligible neighborhood. There is a 1 to 1 match requirement, she said, and the timeline for this project is one year from initial activities, with estimated activities starting in late summer to early fall. The City of Fargo, she said, was one of fifty-one communities that received this award.

Commissioner Mahoney moved the Our Town Grant Award in the amount of \$100,000.00 from the National Endowment for the Arts be accepted.

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Cost Participation Agreement Between the City of Fargo and the North Dakota State Water Commission Approved:

The Board received a communication from City Administrator Pat Zavoral stating the State Water Commission staff drafted a Cost Participation Agreement covering cost sharing between the State of North Dakota, by and through the State Water Commission, and the City of Fargo for flood protection for the community. He said the agreement addresses the State's responsibilities for dispersing the \$75 million that has been allocated for flood protection in Fargo and Cass County.

Commissioner Wimmer moved the Cost Participation Agreement between the City of Fargo and the North Dakota State Water Commission for flood control projects be approved.

Second by Mahoney. On call of the roll Commissioners Wimmer, Mahoney, Williams, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Design Agreement with the Department of the Army for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project and Project Management Plan Approved:

The Board received a communication from City Attorney Erik Johnson stating the Design Agreement between the U.S. Army Corps of Engineers and the non-federal sponsors of the Metro Flood Project, the Cities of Fargo and Moorhead, must be remitted to the Corps on or before August 3rd in order for the project to stay on schedule. He said the agreement addresses the initial \$30 million in design costs of which the non-federal sponsors will be responsible for 50%. The agreement, he said, also includes required certification regarding lobbying as this certification prohibits use of federal funds for lobbying purposes related to this project.

City Engineer Mark Bittner asked that he Project Management Plan be approved as well.

Commissioner Mahoney moved the Design Agreement between the Department of the Army and the City of Fargo, North Dakota and the City of Moorhead, Minnesota for design for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project and the Project Management Plan be approved.

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Piepkorn and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Commissioner Mahoney moved that the Board adjourn to 5:00 o'clock p.m., Monday, August 8, 2011.

Second by Piepkorn. All the Commissioners voted aye and the motion was declared carried.

The time at adjournment was 5:53 o'clock p.m.